

**Pembroke Planning Board  
Meeting Agenda  
Tuesday, September 25, 2007**

**MEMBERS PRESENT:** Robert Bourque, Vice Chairman, Cindy Lewis, Selectmen's Representative, Alan Topliff, Todd Terrien

**ALTERNATES PRESENT:** Dan Crean, Kathy Cruson, Kevin Krebs

**EXCUSED:** Roland Lemoine, Chairman, Kevin Foss, Mark Zydel

**STAFF PRESENT:** Laura Scott, Director of Planning, Jocelyn Carlucci, Recording Secretary

Vice Chairman Bourque opened the meeting at 7:00 p.m. He designated Alternate Member Cruson to vote in place of Member Foss. Vice Chairman Bourque will preside as Acting Chairman in Chairman Lemoine's absence.

**Public Hearing**

**Minor Site Plan Application.** Case #07-104. Map 266 Lots 58-3, 58-8, 58-9, 58-10, and 58-11 located in the Chickering Meadow development in the Medium Density Residential (R1) Zoning Districts. The applicant, Chickering Builders, LLC, is proposing to modify an existing Site Plan (Case #03-104) to allow for the retention of six (6) earth berms that are currently on site.

Acting Chairman Bourque noted that Selectman's Rep. Lewis stepped down and appointed Alternate Member Crean to vote in her place.

Ms. Scott noted the following documents enclosed in the Member packets:

1. Memo to Chickering Builders, LLC from Laura Scott dated August 23, 2007
2. Memo to Planning Board from Laura Scott dated September 18, 2007
3. Letter to Laura Scott from Steven Keach, P.E., President of Keach-Nordstrom Associates, Inc. dated September 5, 2007
4. E-mail to Laura Scott from Everett Hodge, Code Enforcement Officer dated September 5, 2007
5. E-mail to Laura Scott from James Boisvert, Director of Public Works dated August 28, 2007
6. E-mail to Laura Scott from Chief Scott Lane, Pembroke Police Dept. dated August 27, 2007
7. E-mail to Laura Scott from Chief Harold Paulsen, Pembroke Fire Dept. dated September 12, 2007
8. Memo from R. Jeffrey Burd, P.E. received August 10, 2007
9. A copy of the site plan dated July 25, 2007.

Acting Chairman Bourque explained that Keach-Nordstrom Associates, Inc., rather than KV Partners, reviewed the plan because they were the original reviewer for the Town at the time the project was approved.

R. Jeffrey Burd, P.E. of Starter Building and Development explained that Starter Building and Development is the owner of Chickering Builders LLC. He said that the project consists of 72 condominium units of which 60 units are constructed and 50 are occupied. Presently there are 12 units under construction. He is asking for an amendment to the approved site plan.

Mr. Burd said that during construction excess fill was generated and was used to construct 6 earth berms. Mr. Burd does not feel that the berms create any detrimental effect on the project. He said that Keach-

Nordstrom was aware of the berms and advised the applicant to come before the Planning Board to amend the site plan. He also said that Keach-Nordstrom reviewed the project and cited drainage issues. Mr. Burd feels that there is minimal impact on drainage caused by the berms. He will be submitting a formal report to the Planning Board.

Mr. Burd said the berms have not affected the wetlands. A representative of DES walked the site and a copy of the letter from DES, giving the project a clean bill of health, will be sent to Ms. Scott.

Alternate Member Krebs asked what impact there was on drainage.

Mr. Burd said Brown Engineering is looking at the drainage issues and is preparing new drainage calculations. A swale may be constructed from the earth berm to the retention area for drainage from the North side of the project. No rerouting will need to be done on the other areas. The original grading on the West side is still draining into the wetlands as originally designed.

Alternate Member Crean stated that the applicant should not be before the Board until the drainage calculations and all other information has been completed.

Ms. Scott stated that since the new drainage calculations have not been completed, Keach-Nordstrom have not reviewed them.

Acting Chairman Bourque noted that the Public Works' Director noted numerous complaints regarding the berms and water. He advised Mr. Burd to speak with the Public Work's Director.

Mr. Burd stated that all the berms have been seeded and vegetated and he would speak with the Public Work's Director.

Acting Chairman Bourque said that since the applicant has changed the site plan from the originally approved site plan and the new drainage calculations had yet to be submitted to the Board, he suggested that the application be tabled until October 23, 2007. All Board members agreed.

Alternate Member Crean stated that the application should not have been placed on the agenda, as noted in RSA 676:4, because the application was incomplete. He said that the notices will need to be resent when the application is complete.

Ms. Scott stated that only the Planning Board has the authority to deem an application complete, not Town staff.

After a brief discussion, the Board agreed to renote abutters for the October 23<sup>rd</sup> meeting if the application is complete.

William Rossingnol, 218A Kearsage Drive, Chickering Meadows asked the Board to compare the original drainage calculations to the new drainage calculations in order to determine whether the impact is significant.

Selectman's Rep. Lewis returned to the Board. Alternate Member Crean will no longer vote.

### **Conceptual Consultation**

Grace Capital Church (Map 634 Lot 41-1) proposal for the expansion of the existing sanctuary, construction of a multi-purpose/recreation space, expansion of administrative space, and construction of additional multi-purpose rooms. This expansion would also necessitate the addition of parking and changing the internal traffic patterns.

Ms. Scott stated that there was a letter from Michael Kerivan, P.E. of McFarland-Johnson, Inc. dated September 18, 2007 along with a conceptual site plan that was included in the member packet.

Mr. Kerivan explained that the existing plan illustrates the roadway to the Church and its 2-way driveway into a parking area adjacent to the building along with a roadway to additional parking in the rear. There is a 50' gas pipeline on location that separates the two parking areas.

The applicant is proposing 4 additions to the existing building consisting of 1 large and 3 smaller additions. Part of the addition will increase the sanctuary seating. The applicant wants to add parking to accommodate the sanctuary seating. They will have 1,037 seats which, at 4 spaces per seat, calculates to 259 parking spaces needed. With the proposed configuration there will be 266 spaces. Mr. Kerivan noted that the plans do not include handicapped or compact spaces which he will be adding. He said that the access road will be closer to the property line. The applicant is also proposing a one-way in driveway to the back parking area and a one-way out driveway.

Part of the addition will include a gymnasium, office spaces, and multi-purpose rooms. The applicant based the parking spaces on the sanctuary seating because they felt that it would be the largest. Services will be on off-peak hours and will not affect peak traffic along Route 3.

Mr. Kerivan said that the applicant is currently working with the Sewer Department for sewer capacity and are also considering an onsite septic systems.

Acting Chairman Bourque designated Alternate Member Crean to vote in place of Member Zydel.

In answer to Acting Chairman Bourque's question, Mr. Kerivan said that he had not done the calculations for impervious area, but thought that they had over 30% of open space.

Member Topliff suggested that the applicant look at the possibility of over the 1,037 figure given since it is possible that future Sunday school and service times may change and run simultaneously.

Mr. Kerivan said that there is enough room to add an additional 44 parking spaces if necessary.

Acting Chairman Bourque asked if there would be additional outdoor utilities added to the outside of the building? Mr. Kerivan said that there will be another unit added. Acting Chairman Bourque said he would like to see it screened from Route 3.

Alternate Member Crean stated that a non-profit recreational facility is not permitted in this zone.

Ms. Scott said that the applicant would need a use variance.

Jonathan Holly, Architect stated that the court has ruled that if a Church building has classroom and recreational space, it is an allowed use because it is an accessory use to the Church.

Alternate Member Crean said that the Church is presently not a permitted use.

Ms. Scott said that the Church is a grandfathered use and, if the applicant was asking to expand a grandfathered use, it would not be allowed.

Member Topliff stated that Zoning Ordinance 143-47, 14 states that parking requirements deem 1 space for each 4 seats of total seating capacity for a church or public assembly with seating facilities. He recommended that the applicant consider future capacities.

Acting Chairman Bourque stated that the issues are whether: (1) it is an allowed use; (2) the recreational facility is allowed under the new zoning ordinance; (3) parking is affected by total seating or sanctuary seating; and (4) parking requirements apply to mixed-use facilities.

Mr. Kerivan said that the parking lots currently drain to 2 detention ponds. He anticipates that the applicant will need underground detention for the additional parking area. He would like to have the parking lot constructed next year.

Pastor Peter Bonanno said that there are presently 900 people between two services and they currently have a parking shortage. Mr. Kerivan said the applicant should have 225 parking spaces and currently have 152 spaces. Current sanctuary seating capacity is 530 with a permit for 600.

Member Topliff noted that  $530/4 = 132$  and stated that, given the past parking shortage, the applicant's desired parking spaces might still be undersized for the proposed building construction.

Mr. Kerivan asked how the applicant would receive the answer to the zoning issues and who would he work with in Laura's absence? He asked if the applicant should go to the Zoning Board for the expansion of a grandfathered use for a church and/or a recreational facility?

Ms. Scott advised Mr. Kerivan to speak with the Code Enforcement Officer for his interpretation of the zoning ordinance. If he says the use is not allowed, the applicant can then appeal it to the Zoning Board.

Upon inquiry from Mr. Kerivan regarding sewer capacity, Acting Chairman Bourque stated that it is the Sewer Department's responsibility to address the issue, not the Planning Board.

Alternate Member Crean stated that the applicant will need to address the sewer issue before proceeding with the application process.

Mr. Kerivan asked if sewer capacity could be a condition of approval. Selectman's Rep. Lewis said yes.

Ms. Scott clarified that, in a commercial applications, the applicant must tie into Town sewer as soon as sewer capacity is available regardless of their septic system.

Mr. Holly said that to abandon a new septic system once Town sewer is available would be expensive.

### **Approved Site Plan Change Request**

Request to remove the requirement, per the Planning Board approved Subdivision Plan, for 2 diamond yellow warning signs to be placed at the end of Haleighs Court

Ms. Scott noted the following documents: (1) letter, placed at each Member's seat, to Geoff Ruggles from Paul A. Taylor received September 25, 2007; (2) e-mail to Laura Scott from Dan Aversa dated September 19, 2007; (3) memo to Laura Scott from Mike Vignale of KV Partners LLC dated September 15, 2007; and (4) copy of the site plan.

Mr. Aversa said that he spoke with Jim Boisvert, Public Works Director and Geoff Ruggles, Interim Town Administrator. He explained that Walter Norris, former Public Works Director, and Emile Lacerte did not want the two diamond shape signs because they would be in the snow storage area. Mr. Boisvert said he wants the signs. He is asking that the two signs be eliminated from the plan.

Because of safety concerns, Selectman's Rep. Lewis felt that the signs should remain at the end of the road in order to prevent someone from running into the trees. The end of pavement was not noted on the plan. Mr. Aversa recommended putting a "dead end" sign on the right side of the road.

Member Krebs agreed with Selectman's Rep. Lewis. He said it was possible that someone would not be aware that the road would end.

Mr. Aversa said Mr. Taylor will be removing the basketball hoop from the turnaround area and had sent a letter to the Town stating such. Ms. Scott said that she did not receive a letter from Mr. Taylor regarding the basketball hoop.

Alternate Member Crean suggested placing a sign on the right side of the road that reads "Road Ends".

Acting Chairman Bourque suggested that if a change is made from the approved plan, the applicant should receive approval from the Board.

Ms. Scott said that Mr. Boisvert wanted the two diamond yellow warning signs placed at the end of the road, and the Police wanted a warning sign of some kind for safety and liability reasons.

**MOTION:** Acting Chairman Bourque moved to place two diamond yellow warning signs at the tree line and a "Road End" or "Dead End" sign be placed at the end of the pavement on the right side of the road. Alternate Member Crean seconded.

Member Krebs said that since the applicant came to the Board asking for the elimination of the two yellow warning signs, the Board should vote only on whether to eliminate the two signs and not add an additional sign.

Acting Chairman Bourque stated that the two yellow signs may be covered by snow in the winter, therefore, adding the additional road sign would ensure that a driver is aware of the road ending.

Selectman's Rep. Lewis suggested placing one diamond sign at the tree line and a "Road End" or "Dead End" sign on the side of the road.

Member Krebs asked if the Board was allowed to change the signs from the original approved plan. Alternate Member Crean said the Board has the authority to make a substitution by adding an additional sign.

Acting Chairman Bourque revised his motion as follows:

**MOTION:** Acting Chairman Bourque moved to place one diamond yellow warning sign at the tree line and an “End of Road” sign on the right side of the road. Alternate Member Crean seconded.

**VOTE:** Robert B. – Y                      Todd T. – Y                      Kathy K. – Y                      Dan C. - Y  
            Alan T. – Y                              Cindy L. – Y                      Kevin K. – N

**MOTION TO PLACE ONE DIAMOND YELLOW WARNING SIGN AT THE TREE LINE AND AN “END OF ROAD” SIGN ON THE RIGHT SIDE OF THE ROAD PASSED ON A 6-1 VOTE.**

Ms. Scott will send a memo to the Board of Selectmen indicating the Planning Board’s decision.

Acting Chairman Bourque stated that an applicant can only change an approved Plan with permission from the Board.

**Review Proposed 2008 Town Meeting Items**

1. Home Businesses
  - a. §143-28 Minor Home Occupation
  - b. §143-29 Major Home Occupation
  - c. §143-30 Home Business
  - d. §143-70 Home Business Overlay District

Acting Chairman Bourque referred to his proposed the changes on the 09/25/07 Draft (a copy of which is included in the file). (The words in bold and underlined are the proposed changes, the stricken words are to be eliminated.) He noted that the original ordinance listed Minor and Major Home Occupation and Home Business categories. Minor Home business would need a special exception from the ZBA, a Home Business would need to come to the Planning Board, and Major Home Business must do both.

Ms. Scott noted the draft City of Rochester Zoning Ordinance for Items #14 Nontransferability, #15 Certificate of Occupancy, & #17 Revocation which Acting Chairman Bourque thought the Board should discuss for possible inclusion in the Pembroke ordinance. (A copy of which is included in the file.)

Ms. Scott explained that Acting Chairman Bourque created three sections of Home Business which require different levels of review. Experience has shown that residents are opening small home businesses without coming to the Town. Those residents who come to the Town, are required to do a site plan and feel that the review process is too great for the minimal amount of work that they would perform.

Alternate Member Crean suggested keeping the minor home occupation as a permitted use. He said most zoning ordinances use the term “Home Occupation” because it eliminates the notion of retail sales. He suggested looking at the definitions very carefully and cited an example: The existing definition of

“Home Business Occupation” on Page 1 reads “Any activity carried out . . . customary, incidental, and accessory use in the resident’s . . .” He said that “accessory use” means customary and incidental and is, therefore, repeating itself in the definition. Alternate Member Crean also said that a Major Home Business is not customary, incidental or accessory. It is a special exception. The term accessory use means committed, and, therefore, does not need a special exception.

Alternate Member Crean recommended:

1. Allowing a Minor Home Occupation to remain a permitted use.
2. Eliminating the word “display” and replace with “storage”. . . in §143-28, D.
3. Carefully reviewing the definitions.

Selectman’s Rep. Lewis noted that problems occur once a home business becomes successful and hires employees. Neighbors complain about delivery trucks, employee parking, street congestion, etc. The purpose of the ordinance is to make the business owner’s aware of the requirements from the beginning.

Alternate Member Crean suggested that the Planning Board: (1) define Home Occupation/Home Business; (2) decide what is permitted as an accessory use; and (3) designate the zones in which it will be permitted. He also suggested that the newsletter periodically run an article that would outline the steps required to start a business in Town. Alternate Member Crean said he would prefer seeing 2 categories: 1 permitted and 1 special exception. The trigger should be the number of employees.

Alternate Member Crean also said that the Certificate Of Occupancy requirement would address the concern of not knowing the businesses that have started and makes the owner aware of the ordinance.

Selectman’s Rep. Lewis suggested determining the point at which trash pickup would not be allowed and to address the issue at site plan review.

2. §143-42 Commercial Kennels. Tabled until Chairman Lemoine returns.
3. §143-69 Floodplain Development District

Ms. Scott noted the document entitled “Attachment 2” (received September 11, 2007) which is the State suggested requirements for adoption at Town meeting. Ms. Scott had no issues with the State suggestions but admitted that floodplains is not her area of expertise. She said that most communities rely on the State and FEMA to provide the language and make recommendations, in case there were problems that could jeopardize flood insurance.

Alternate Member Crean said that what the State recommends is not always what the Town may want. He said that the statute uses the term “manufactured housing” and questioned why the Board would want to change the term to “manufactured home” as recommended by the State?

Acting Chairman Bourque suggested: (1) the State-recommended definitions be reviewed to see how they differ with Pembroke’s definitions; (2) the Planning Board be given an explanation of what the State’s changes mean to Pembroke; and (3) any ordinance conflicts be noted.

## Meeting Minutes – Review and Approve

- August 21, 2007 minutes were discussed and revised.

**MOTION:** Member Topliff moved to accept the minutes of August 21, 2007 as amended. Seconded by Alternate Member Crean.

**VOTE:** Robert B. – Abstained                      Todd T. – Abstained                      Kathy K. – Y  
          Alan T. – Y                                      Dan C. – Y                                      Kevin K. – Y  
          Cindy L. – Abstained

**MOTION TO ACCEPT THE MINUTES OF AUGUST 21, 2007 AS AMENDED PASSED ON A 4-0 VOTE WITH THREE ABSTENTIONS.**

- August 28, 2007 public session - minutes were discussed and revised.

**MOTION:** Member Topliff moved to accept the minutes of August 28, 2007 public session as amended. Seconded by Selectman’s Rep. Lewis.

**VOTE:** Robert B. – Y                                      Todd T. – Y                                      Kathy K. – Y  
          Alan T. – Y                                      Dan C. – Y                                      Kevin K. – Y  
          Cindy L. – Y

**MOTION TO ACCEPT THE MINUTES OF AUGUST 28, 2007 PUBLIC SESSION AS AMENDED PASSED ON A 7-0 VOTE.**

- August 28, 2007 non-public session

**MOTION:** Alternate Member Crean moved to accept the minutes of August 28, 2007 non-public session. Seconded by Acting Chairman Bourque.

**VOTE:** Robert B. – Y                                      Todd T. – Y                                      Kathy K. – Y  
          Alan T. – Abstained                      Dan C. – Y                                      Kevin K. – Y  
          Cindy L. – Y

**MOTION TO ACCEPT THE MINUTES OF AUGUST 28, 2007 NON-PUBLIC SESSION AS AMENDED PASSED ON A 6-0 VOTE WITH 1 ABSTENTION.**

- September 11, 2007

**MOTION:** Member Topliff moved to accept the minutes of September 11, 2007. Seconded by Member Terrien.

**VOTE:** Robert B. – Y                                      Todd T. – Y                                      Kathy K. – Y  
          Alan T. – Y                                      Dan C. – Y                                      Kevin K. – Y  
          Cindy L. – Y

**MOTION TO ACCEPT THE MINUTES OF SEPTEMBER 11, 2007 PUBLIC SESSION AS AMENDED PASSED ON A 7-0 VOTE.**

Member Topliff asked if the Board was considering joining Central New Hampshire Regional Planning? Alternate Member Crean said he would like to see a business plan outlining what they will do for the Town. Acting Chairman Bourque agreed.

Member Topliff asked if the Board should include \$10,000 in the budget to possibly join.

Selectman's Rep. Lewis said that there would be a discussion with the Board of Selectmen addressing the planning position and that that would be the time to discuss the possible membership with Central New Hampshire Regional Planning. She said that it would be best to meet with Central New Hampshire Regional Planning sooner than later.

Acting Chairman Bourque said that MRI offered their services at \$80 per hour plus expenses. He noted that he was called by Selectman Fred Kline and asked to speak with the Board of Selectmen to discuss the Planning Board's long-term and short-term replacement options for the Town Planner. Acting Chairman Bourque said that short-term options were to hire: (1) Central New Hampshire Regional Planning, which would be Matt Monahan; (2) MRI at \$80/hr. plus expenses; or (3) accept Ms. Scott's offered to work 1 day a week to continue planning until a Planner is hired.

Acting Chairman Bourque said that long-term options are: (1) to continue with a Town Planner; or (2) consider other options.

Alternate Member Crean suggested speaking with other towns for short-term options. He said the primary role of the planner is administration of affairs for the Planning Board which is a Town administrative position. He said that a person does not have to be a planner or have a certification in order to review plans. The person needs to provide minimal guidance for people on the application process. He said the Board should also look at engaging services of a contract planner to do planning services such as growth management, impact fees, and advising the Board on innovative zoning, etc. He said that the Town would receive better planning services by hiring professional planning services rather than a planner/administrator.

Acting Chairman Bourque said that he did not totally agree with Alternate Member Crean. He stated that the Town should continue to have a Town Planner and that there is more to that position than merely administrating checklists. He said that the Planner interfaces with other departments, engineering, and the State and must have a certain understanding of the field and regulations which an administrator would not have.

Alternate Member Crean said that if the Planning Board wanted to draft an ordinance, most towns ask their attorney to draft the ordinance for the Board to review. It would take less time for the attorney to draft the ordinance than a planner.

Ms. Scott clarified that the Planning Board does not have a legal budget. There is one legal budget for the whole Town. The goal is to keep the legal costs down. The Town Planner can only speak with legal counsel with permission from the Town Administrator so that the costs are justified. Although proposed

changes and legal documents are eventually reviewed by legal counsel, the Town Planner always reviews the documents first (to catch the “easy” mistakes) in hopes of saving the Town money.

Acting Chairman Bourque asked Ms. Scott to prepare a memo to the Board of Selectmen, for his signature, expressing the Planning Board’s recommendation that:

- A. For the long term: (1) consider another Town Planner; and (2) look at alternatives such as a Planning Administrator with outside planning services.
- B. For the short term, the Planning Board would like to recommend that Ms. Scott be allowed to work one day a week.

Acting Chairman Bourque asked Ms. Scott to also ask the Board of Selectmen for a copy of what was included in the submitted Planning Board budget and an explanation for any deviation from what the Planning Board voted on. He also asked Ms. Scott to inform the Board of Selectmen that the Planning Board would like to meet with them at their earliest opportunity.

Alternate Member Krebs said that he would like to bring the subdivision regulations to the Planning Board for their input before he, Todd, and Mark spend a great deal of time revising them. Ms. Scott will place it on the next agenda.

#### **Miscellaneous**

- 9/11/07 Budget Update

Ms. Scott said she received a notice of a site plan review from the Town of Bow for a River Road project. Acting Chairman Bourque asked her to thank Bow for notifying the Board.

**MOTION:** Alternate Member Crean moved to adjourn. Member Terrien seconded.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Jocelyn D. Carlucci  
Recording Secretary